IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WP No. 13644 of 2007

Between :

Gudla Appayamma and another .. Petitioners

And

The Visakhapatnam Urban Development Authority rep. By its Chairman, Visakhapatnam and two others .. Respondents

Dated : 26th July 2007

JUDGMENT :

Heard learned counsel for the petitioners and Ms. Preeti Reddy for the 1st respondent, Sri N.Ranga Reddy, learned counsel for the 2nd respondent and learned Government Pleader for Revenue for the impleaded 3rd respondent.

Learned counsel for the petitioner seeks permission to implead the Special Officer, Urban Land Ceiling Authority, Visakhapatnam as the 3rd respondent. Permission is accorded. Learned counsel is permitted to amend the cause title

It is not in dispute that the vacant land held by the writ petitioners herein was the subject matter of determination of excess

land holding in terms of Urban Land (Ceiling & Regulation) Act, 1976. The writ petitioners family has been determined to be holding excess land of an extent of 1266 Sq. mts situated in S.No.50/12 part, Maddilapalem, Visakhapatnam. The grievance of the writ petitioners is that the respondents 1 and 2 who have no authority of any manner to deal with the land in question have started raising constructions in the form and shape of a compound wall and in the process started grossly encroaching upon the land which is liable to be legitimately held by the writ petitioners. Therefore, the writ petitioners instituted this writ petition seeking the following relief :

> "For the reasons stated in the accompanying affidavit, it is hereby prayed that this Hon'ble Court may be pleased this Hon'ble Court may be pleased to issue a Writ, Order or direction, particularly a Writ in the nature of Mandamus, declaring the action of the respondents herein in forcibly constructing the compound wall in the land owned and possessed by the 1st petitioner herein in S.No. 50/12 part, Maddilapalem, Visakhapatnam, without taking the statutory steps as required under Section 17 of the Urban Land (Ceiling & Regulation) Act, is illegal and unauthorized and consequently, direct the 1st respondent herein to get the land owned and possessed by the 1st petitioner herein in S.No.50/12 part, Maddilapalem, Visakhapatnam, surveyed by their own officers and demarcate the land to be

surrendered and the land to be retained respectively by making measurements and take possession of the excess land of an extent of 1266 sq. yards directed to be surrendered by the 1st petitioner herein and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case…"

The learned counsel for the writ petitioners has pointed out that the determination of the excess vacant land held by the petitioners has attained finality. Therefore to the extent of 1266 Sq.mts of excess land is concerned, it is for the State Government to protect it by an appropriate measure. But, in the process the respondents 1 and 2 or the State Government can never encroach upon the vacant land which the writ petitioners are otherwise legitimately and legally entitled to hold. I therefore, direct the 3rd respondent order for necessary inspection of the land in question and appropriately demarcate the land which is liable to be held by the petitioners and separate the same from the excess vacant land which is liable to be surrendered by the petitioners. In fact the writ petitioners are entitled to exercise an option and choose the best piece of vacant land to be retained by them. Only after demarcation of the excess vacant land, the 3rd respondent may take himself or authorize the respondents 1 and 2 to take appropriate measures for preserving and protecting such vacant land without in any manner either encroaching upon or limiting the usefulness of the land liable to be held by the writ

petitioners. This exercise be completed within a period of three months from the date of receipt of this order and till such time the vacant land liable to be held by the writ petitioners be not put to encroachment or disturbance in any manner.

Writ Petition is disposed of with the directions as above.

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knk 26.07.2007